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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,410	01/07/2002	Ross Alan Dannenberg	RAD2.2	3587
30476	7590	12/03/2003		
ROSS A. DANNENBERG 312 CAMERON STATION BLVD. ALEXANDRIA, VA 22304			EXAMINER CHENG, JOE H	
			ART UNIT 3713	PAPER NUMBER

DATE MAILED: 12/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/036,410

Applicant(s)

DANNENBERG, ROSS ALAN

Examiner

Joe H. Cheng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-21 are rejected under 35 U.S.C. § 102(e) as being anticipated by Van Schaack et al (U.S. Pat. No. 6,652,283 B1). The broadly claimed structure can be interpreted as the system apparatus and method for maximizing effectiveness and efficiency of learning retaining and retrieving knowledge and skills of Van Schaack et al. Figs. 1-53 of Van Schaack et al broadly discloses the system, or method, or computer readable medium storing computer readable instruction when executed by the process cause the computer to present test preparation questions to a user comprising displaying a first question to which a response is requested on the display device to a user (710), receiving a weighted response to the first question from the user (see Figs. 41, 42 and 50), when the user's response is correct, repeating the displaying and receiving steps for the first question when the weight meets predetermined criteria (see Figs. 7-13B, for example items 840, 852), and averaging the weight received in response to displaying

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the first question during repetition, wherein the weight corresponds to the user's confidence for indicating whether the user is either sure or unsure about the correctness of the response, or the percentage or an amount of time.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abrahamson et al (U.S. Pat. No. 5,002,491) - note Figs. 1-5B;

Von Kohorn (U.S. Pat. No. 5,034,807) - note Figs. 1-24;

Antoniak (U.S. Pat. No. 5,456,607) - note Figs. 1A-5;

Wadahama et al (U.S. Pat. No. 6,024,577) - note Figs. 1-19;

Morse, III et al (U.S. Pat. No. 6,120,297) - note Figs. 1-13;

Remschel (U.S. Pat. No. 6,141,528 B1) - note Figs. 1-23;

Von Kohorn (U.S. Pat. No. 6,443,840 B2) - note Figs. 1-47;

Wallace et al (U.S. Pub. No. 2002/0160347 A1) - note Figs. 1-9;

Packard et al (U.S. Pub. No. 2002/0169822 A1) - note Figs. 1-29(c);

Cadman et al (U.S. Pat. No. 6,648,651 B1) - note Figs. 1 and 2.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe H. Cheng whose telephone number is (703)308-2667. The examiner can normally be reached on Tue.- Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703)308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications and for After Final communications.

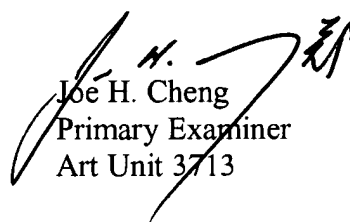
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Joe H. Cheng  
November 21, 2003

  
Joe H. Cheng  
Primary Examiner  
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